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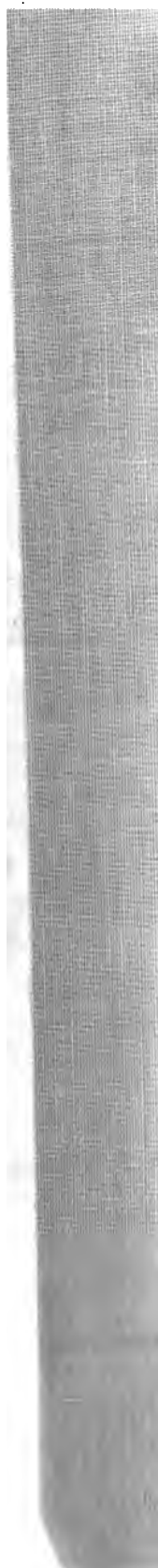
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CALIF. BD. OF
STATE VITICULTURE
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How TO RAISE THE PRICE OF
GRAPES







STATE OF CALIFORNIA.

BOARD OF STATE VITICULTURAL COMMISSIONERS.

HOW TO RAISE THE PRICE OF GRAPES,

AND

ANALYSIS OF THE SWEET WINE LAW.

By CHARLES A. WETMORE,
Chief Executive Officer.



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ANNUAL REPORT OF CHARLES A. WETMORE.

To the Board of State Viticultural Commissioners:

GENTLEMEN: I herewith submit a copy of an analytical review of the United States law affecting sweet wines, which I prepared as Chairman of the Local Vine Growers' Committee of Livermore, and which has been transcribed at the request of your Executive Committee, to be forwarded to Mr. F. A. West, now in Washington. If this analysis of the law should meet with your approval, I suggest that it would be well to have it printed in pamphlet form for future reference.

It is a matter of great interest to the wine makers of this State, and more particularly to the vine growers who sell their grapes and do not make wine, that the widest possible market for grapes should be created and that every legitimate method of making pure wines should be fostered and protected against arbitrary rules. In restricting the sweet wine law to pure sweet wines made from grapes crushed at the premises of the wine maker in the vineyard district, it was only intended to prevent the use of free spirits in the manufacture of bogus, imitation, or adulterated wines. The law was intended to benefit the grower of grapes; it was not intended to set up any unusual or novel method of using grapes in making sweet wines. It is to the interest of the vine growers of California that such a construction of this law should be made as is necessary to permit eastern wine makers to make wines out of grapes only, and where it is impossible for them to obtain sufficient saccharine strength in one place, it is to be presumed that they will be permitted to obtain it in another, provided that the material used comes solely from the grape and is used in connection with legitimate fermentation of the grapes produced in the vicinity of the wine maker.

We desire that the eastern wine makers may be permitted to use concentrated or boiled grape juice from California whenever their necessities require the same, and if such ruling is made by the department in Washington, the eastern wine maker will be enabled to use not only our concentrated musts, but also our pure brandies in making sweet wines out of eastern grapes, and our interests, as well as the interests of all vine growers, whether East or West, will be subserved by avoiding the necessity of resorting to adulteration or imitation.

How can the market value of grapes be increased in California?

The most important question for our people in California at the present time, is—how to provide a practical method of overcoming the unhealthy condition now prevailing in the market for wine grapes. We all know that deficiency of capital is the only cause of the present unsatisfactory condition of affairs. Through want of capital to develop and complete vineyard operations; to improve and perfect wines; and to hold the same subject to the normal demands of the market, our vine growers are compelled to sell their products at prices frequently less than the cost of production.

Temporary relief could be obtained by reducing the amount of grapes which are converted into wine or offered for sale to wine makers. How to accomplish this has been a study of the last few years, and the necessity of the times has been partly met by the drying of wine grapes. This remedy is, however, practical only in certain places and at certain seasons. In addition to this remedy, there should be an increased pro-

duction of brandy; for this purpose a large number of new distilleries in the hands of vine growers who have sufficient capital to handle grapes should be created; or what will answer the purpose better, for the present time, in all large vineyard districts there should be coöperative distilleries established by those vine growers who have grapes to sell and who desire to get remunerative prices, as well as also the prospect of better profits in the future.

It has been the habit, generally, of these vine growers to rely upon the resources of those relatively few, who have wineries established, to dispose of their grapes. The result of this reliance, however, has been disastrous to both parties concerned. Wine makers have been tempted to make more wine than their facilities or their capital would permit to be well done, and prices for grapes have necessarily fallen low. During the present year wine makers, who have suffered by purchasing more grapes in the past than they could properly manage, will be tempted to offer low prices for grapes hereafter, or refuse to purchase at all. Now, there is no good reason why vine growers who have grapes to sell should decline in future to take care of their own grapes. Generally they are found to be in better financial circumstances than those who have been buying grapes, and can, therefore, rely upon themselves with more safety than upon those who have helped them in the past. They owe it to themselves and to the wine makers to make an immediate effort to relieve the market through their own endeavors.

In connection with the work of the vine growers in the valley where I live, I have had occasion to give some attention to this subject, and I desire now to report to you the plan which has been devised, in order that it may be copied as widely as possible, and without delay.

Whatever is done for the relief of the market this year must be begun immediately. The plan is as follows:

Let some man, or committee of men, having business qualifications, in each district, go immediately to those vine growers who have grapes to sell, and procure from them contracts promising to deliver a certain number of tons of grapes to a trustee, who shall be authorized to proceed for them to organize a company, the cost of which shall be paid for by the brandy which shall be distilled from the grapes contributed. Let us suppose that contracts amounting to two thousand tons of grapes, or more, have been procured in one locality. Let there be a nominal price fixed for these grapes, with a certain standard of sweetness, say \$10 per ton for grapes with 22 per cent or more of sugar, the price to be reduced proportionately as the sugar shall fall under 22 per cent, but no variation in price for sugar contained above the standard. If variation in price should be fixed for grapes above the standard it would probably defeat the purpose of the organization by causing growers to refuse to pick early when required.

Practical men will be free to say that grapes distilled and sold within six months after the vintage, will return an income of more than \$10 per ton, so that this figure for nominal prices is within reason.

As soon as the grapes have been by these trustees fermented, distilled, and sold, the distillery buildings, cooperage, and other appurtenances which have been created in order to work this plan, may be then out of debt and transferred to the proposed company, and stock issued to those who furnished grapes in proportion to the nominal value as agreed. In this way an effective plant for distilling can be created and *paid* for within six months from the time of vintage, and there would

probably be also a profit out of which a dividend might be declared, or which might be better used in adding further facilities and cooperage, so that during the next year, if deemed advisable, a portion of the crops offered by the stockholders might be kept as wine without distilling.

Now, as to the practical method of perfecting this plan in different localities: The trouble with the vine growers is that not many of them can pay assessments in cash, but nearly all of them could furnish from half to the entire amount of their crops in lieu of cash. Some might not be able to furnish more than half, reserving the other half for sale elsewhere to cover their current expenses. The trustee or trustees who undertake to carry out such a plan, after they have procured valid contracts for the grapes, with authority to dispose of them as has been suggested, would find little difficulty in obtaining credit to create the necessary plant, with the assurance they could give that the product in brandy would be realized upon within six months; in fact, I know now that contracts with responsible parties could be procured for the sale of this brandy before the vintage, so that those who would be lending credit to these organizations would take no risks.

Now, as to the probable cost of such an operation: Roughly estimated, \$15,000 would be ample to secure land, construct cheap buildings for fermentation only, tanks for fermentation, together with an adjacent distillery of the most approved and effective pattern, capable of managing two thousand tons of grapes in one season. These two thousand tons of grapes would realize, when sold as brandy, within six months, not less than \$20,000, so that there would be a surplus for management and expenses of operation. It is more than probable that there would be an income of at least \$5,000 more, which could be used to increase the facilities of this winery and distillery for future use. Having obtained stock in this company, after the goods have been sold by the trustees, each stockholder would have an interest free of debt, which would be good collateral in case he needs money in his vineyard operations.

By adopting this plan in many different districts, simultaneously, and by pushing it forward vigorously in time for the next vintage, the difficulties now besetting our vine growers would be practically overcome, and next year there would be an active demand for grapes at good prices.

This plan, in effect, amounts to the capitalization of the surplus grape crop in such a manner that future crops can be profitably handled, and so that during the present year any surplus of wine may be disposed of by distillation.

Unless something is done with energy by those citizens in the different districts who understand the importance of this question, and have business capacity to perfect such plans, as well as the confidence of the communities in which they live, there will be a serious depreciation this year in the price of grapes, which ought not to be permitted. Local action should take place through movements inaugurated by local banks and merchants, whose prosperity depends upon the success of the grape growers. These men should not wait for the growers to get together, but should immediately begin to organize such companies as have been proposed through trustees.

Respectfully submitted.

CHARLES A. WETMORE,
Chief Executive Officer.

SAN FRANCISCO, June 8, 1891.

ANALYSIS OF PROVISIONS AND PURPOSES OF INTERNAL REVENUE SECTIONS OF THE M'KINLEY TARIFF ACT, RELATING TO FORTIFICATION OF SWEET WINES.

SECTION 42. That any producer of sweet wine, who is also a distiller, authorized to separate from fermented grape juice, under Internal Revenue laws, wine spirits, may use, free of tax, in the preparation of such sweet wines, under such regulations and after the filing of such notices and bonds, together with the keeping of such records and the rendition of such reports as to materials and products, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, so much of such wine spirits so separated by him as may be necessary for the preservation of the saccharine matter contained therein. * * *

This portion of Section 42 indicates one class of producers of sweet wine who are entitled to the benefits of the Act. The language indicates that it was the purpose of the law that sweet-wine makers, who are also distillers of grape brandy, shall enjoy the privilege, subject to departmental regulations, after compliance with official rules requiring such notices and bonds as the department may require. It indicates, also, that it was expected that the Government would demand the keeping of some form of records and the rendition of reports concerning materials and products. It is not to be presumed, however, that the department, in exercising its authority under this section, will demand any unnecessary act on the part of the producer, but rather that such regulations and demands shall be limited only to the necessary requirements of the Government, in order to enable the purpose of the law to be fully attained without chance of fraud. Regulations for the purpose of obtaining information other than that to which the Government is entitled in its supervisory capacity, would be foreign to the purpose of the Act.

* * * *Provided*, that the wine spirits so used free of tax shall not be in excess of the amount required to introduce into such sweet wines an alcoholic strength equal to fourteen per centum of the volume of such wines after such use; *provided further*, that such wine containing after such fortification more than twenty-four per centum of alcohol, as defined by section three thousand two hundred and forty-nine of the Revised Statutes, shall be forfeited to the United States. * * *

These provisos indicate limitations proposed originally by sweet-wine producers, in order to indicate to the Government their good faith when making their petition for relief. It is plain, however, from the context, that figures contained in these provisos to measure limitations are purely arbitrary, and might with wisdom have been more or less modified. Substantial compliance with these restrictions is all that the Government interest requires, and it is not to be presumed that slight errors innocently committed shall be the cause of severe punishment without previous opportunity having been given by the Government for correction, where the same is practicable. For instance, it is not to be supposed that it was the intention of the Government to take advantage of any slight clerical error in computing alcoholic strength of a fortified wine by causing seizure to be made, when the error can be rectified before the goods are released from the supervision of the Government. This construction, therefore, would imply that cases might arise where wine once fortified might require to be blended with other wines, in order to reduce strength, accidentally too high, before final report is made. In

practical wine making the most careful wine makers are necessarily dependent, more or less, upon poorly educated, though skilled labor; errors in calculations may easily be made, and the Government will surely provide for their rectification, whenever it is possible, before proceeding to any severe measure in the nature of a penalty. The restrictions provided for in this law do not contemplate penalty, except in the case where fraud has been intended. In this matter of internal revenue regulations the Government is practically the silent, though irresponsible partner of the producer, authorized by law to insist upon its rights, but not expected to bully its active partner, upon whose energy and capital the business depends. This remark is only thrown in here as suggestive, because the right of the Government in such questions as this is too often considered the only one of importance. In the attempt to prevent fraud the honest man should not be subjected to ignominious treatment.

* * * *Provided further*, that such use of wine spirits free from tax shall be confined to the months of August, September, October, November, December, January, February, March, and April of each year. The Commissioner of Internal Revenue in determining the liability of any distiller of fermented grape juice to assessment under section three thousand three hundred and nine of the Revised Statutes, is authorized to allow such distiller credit in his computation for the wine spirits used by him in preparing sweet wine under the provisions of this section.

The first portion of this proviso was, in the original draft of the law, limited to the months of August to December, inclusive; the additional months were inserted to satisfy the demands of wine makers east of the Rocky Mountains, who followed the practice of adding saccharine matter to dry wines after perfect fermentation, and at a time which they could choose at their pleasure, when they might need also to fortify with spirits. The wine makers of California can avail themselves of this extended period in some cases with advantage to themselves and the Government; but inasmuch as the purpose of the law is clearly indicated by this passage, to extend the privileges of the Act to those who are accustomed to practice fortification after the first of January and before the first of May, it is to be presumed that, where practicable, the department will construe this law for the benefit of such producers.

Sec. 43. That the wine spirits mentioned in section forty-two of this Act is the product resulting from the distillation of fermented grape juice, and shall be held to include the product commonly known as grape brandy. * * *

This portion of Section 43 plainly indicates that it was the intention of the Government to provide that the *pure sweet wine* to be fortified free of tax under this law should be fortified only with *pure grape brandy*; it is to be expected, therefore, that the department will make regulations to determine accurately what "*pure grape brandy*" is under this section. The question may be raised as to whether the distillation of grapes fermented a second, third, or fourth time, with the aid of sugar and water added, can be considered *grape brandy*.

* * * And the pure sweet wine which may be fortified free of tax, as provided in said section, is fermented grape juice only, and shall contain no other substance of any kind whatever introduced before, at the time of, or after fermentation. * * *

This portion of Section 43 indicates, without any ambiguity, that the relief granted by this law is intended solely for those who make wine out of grapes and not for those who make artificial compounds or adulterated products, and means this and nothing more and nothing less;

it should not be construed to the disadvantage of any one making pure sweet wine from grapes by any methods recognized as legitimate among respectable wine makers in countries where grapes grow to perfection and not under protest of nature. This provision should also not be construed in any manner loosely or so as to defeat the plain object of the Act. In order to fully consider the scope of this provision of the law, it will be necessary to refer again to it when considering other sections and provisions.

* * * And such sweet wine shall contain not less than four per centum of saccharine matter, which saccharine strength may be determined by testing with Balling's saccharometer or must scale such sweet wine after the evaporation of the spirits contained therein, and restoring the sample tested to original volume by addition of water.

Here, again, is a purely arbitrary restriction inserted in the law, as is known by the department, at the request of the same producers who now ask for liberal construction of the provision. In construing the purpose of the provision it is hoped that the department will bear in mind the object that was intended to be obtained, and in all cases where such object is practically obtained that it will consider the law complied with. In asking the Government to fix this limitation at 4 per cent of sugar, the department should recognize that the sweet-wine makers of California were actually imposing upon themselves an injustice, but they did this in order to prevent the purpose of the law from being perverted. There are many cases when legitimate 'sweet-wine makers require to fortify wines which have not more than 1 or 2 per cent of sugar. This is true, especially with regard to sherries. Limitation at 4 per cent was proposed in order to prevent producers of dry wines from fraudulently fortifying clarets and other similar wines under pretense that they were sweet, which may often happen in a slight degree. Such a fraud would only be practiced for the purpose of creating wines to suit an ignoble trade, the object of which is to add fortunes to retailers, and not producers, by giving them materials which will "stand" watering. To protect dry-wine producers the sweet wine interest was to some extent subordinated in this respect, and it was for this reason that our producers insisted upon having the privilege of fortifying sweet wine up to 24 per cent of alcoholic strength. This degree is not necessary in practical work; ordinary sherries are not fortified above 18 per cent, seldom above 20 per cent. The sherry-wine makers were told that under the law they could fortify their sweet sherries up to 24 per cent, and then after settling with the Government they could cut them down with dry sherries to 18 per cent, and not have their sherries sweeter than required by trade.

The department should understand this little inside history in order to thoroughly comprehend how to deal with this restriction of 4 per cent. There is nothing in practical wine making which should indicate that 4 per cent should be the limit rather than $4\frac{1}{2}$, or $3\frac{1}{2}$, or 5, or 6 per cent. It is purely an arbitrary figure fixed for convenience. Therefore, in preparing this law, it was considered sufficiently accurate for the purpose intended to test the wines by the method indicated with the aid of Balling's scale, and it is not intended that there should be any hypercritical discussion as to the accuracy of this determination, because, for practical purposes and for the interests of the Government, it is really immaterial whether the wine contains 3 per cent or 5 per cent, provided only it is sweet enough that the purpose of the law shall not be perverted.

All scientific discussions as to the accuracy of this method of determining the sugar are out of place; what is in order is something simple and practical for the purpose intended. Let the wine be recognized as sweet wine, and distinguished as such from dry wine; that is all that the law contemplates.

Slight technical inaccuracies are of no consequence either on behalf of the Government or of the producers in this connection. Substantial compliance with restrictions of this kind is all that the law requires. Producers should not be burdened with troublesome questions as to precise scientific accuracy.

SEC. 44. That any person who shall use wine spirits as defined by section forty-three of this Act, or other spirits on which the internal revenue tax has not been paid, otherwise than within the limitations set forth in section forty-three of this Act, and in accordance with the regulations made pursuant to this Act, shall be liable to a penalty of double the amount of the tax on the wine spirits or other spirits so unlawfully used. Whenever it is impracticable in any case to ascertain the quantity of wine spirits or other spirits that have been used in violation of this Act in mixtures with any wines, all alcohol contained in such unlawful mixtures of wine with wine spirits or other spirits in excess of ten per centum shall be held to be unlawfully used; *provided, however*, that if water has been added to such unlawful mixtures, either before, at the time of, or after such unlawful use of wine spirits or other spirits, all the alcohol contained therein shall be considered to have been unlawfully used. In reference to alcoholic strength of wines and mixtures of wines with spirits in this Act, the measurement is intended to be according to volume and not according to weight.

The provisions of Section 44 require no analysis or explanation of purpose. It is presumed, however, that the department will consider the penalties prescribed in this section as applicable only in cases where intentional fraud is shown.

SEC. 45. That under such regulations and official supervision and upon the execution of such entries, and the giving of such bonds, bills of lading, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, any producer of pure sweet wine, as defined by this Act, may withdraw wine spirits from any special bonded warehouse free of tax, in original packages, in any quantity not less than eighty wine gallons, and may use so much of the same as may be required by him, under such regulations, and after the filing of such notices and bonds, and the keeping of such records, and the rendition of such reports as to the materials and products, and the disposition of the same, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, in fortifying the sweet wine made by him, and for no other purpose, in accordance with the limitations and provisions as to uses, amount to be used, and the period for using the same, set forth in section forty-two of this Act. * * *

The portion of Section 45 herein referred to requires little analysis; it shows, however, that the law contemplates a demand for the use of free grape spirits during the full period referred to in Section 42.

* * * And the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized, whenever he shall deem it necessary for the prevention of violations of this law, to prescribe that wine spirits withdrawn under this section shall not be used to fortify wines except at a certain distance, prescribed by him, from any distillery, rectifying house, winery, or other establishment used for producing or storing distilled spirits, or for making or storing wines other than wines which are so fortified, and that in the building in which such fortification of wines is practiced no wines or spirits other than those permitted by his regulation shall be stored. * * *

This provision was specially intended to cover isolated cases of application of this law, in regions east of the Rocky Mountains, for which the withdrawal from bond was provided. It was presumed that there might be cases difficult to supervise, and that in such case the Commissioner might need extraordinary powers to enable him to prevent fraud. By the strict words of this section and this portion of the section it will be perceived that the power of the Commissioner to compel these pecul-

iar acts is limited to cases where brandy for fortification is withdrawn from the bonded warehouse, and does not apply in any case to wine makers who distill their brandy. Cases may arise, as, for instance, in some States where only one vineyard exists, or in some isolated region difficult of access, where the officers of the Government would find it difficult to visit the scene of operations often; in such cases it might be found necessary for the Government to adopt extraordinary rules to prevent fraud; all regulations, therefore, which presume the necessity of such storehouses or storerooms for the management of sweet wine should be considered in connection with this section only, and not in connection with distillers under Section 42. To make this clear, look particularly at the specific words of this section which say "that wine spirits withdrawn under this section," etc.

* * * The use of wine spirits free of tax for the fortification of sweet wines under this Act shall be begun and completed at the vineyard of the wine grower where the grapes are crushed and the grape juice is expressed and fermented. * * *

This limitation must necessarily be so construed as to harmonize not only with the purposes of the Act as a whole, but also with carefully specified details, such as those expressed in the first sentence of Section 42, and also the first sentence of Section 45, which plainly indicate that no sweet-wine makers within the definition of the Act shall be excluded. It is necessary, however, to refer to the history of this law to explain the meaning of the word vineyard in this restriction. During the progress of this law the word winery was written where the word vineyard now appears, until the time of its final passage, when the word vineyard was substituted without apparent reason; it is only just to remark that up to the time of this substitution the Government was fully posted as to all the demands and desires of the wine producers, at whose instance this law was passed; but from the time that this change was made no producer was consulted. The producers in California did not know that any change was contemplated until after the law was finally enacted. Nevertheless, they had repeatedly called upon their members of Congress to be informed whenever any change was proposed. This explanation, however, does not help the situation any, except as it may have a bearing upon the liberal construction of the terms used. In the beginning of Section 42, and also in the beginning of Section 45, it is plain that the Government intended to grant relief to "any producer of sweet wine" who otherwise fell within the purpose of the Act.

With the exception of this one word *vineyard*, there is no indication in the whole Act of restriction of privileges to the proprietors of vineyards. In the sentence preceding the one containing the word under consideration, the word *winery* is used, and it is plain that it was the intention of Congress to refer to wineries where pure sweet wines are made, rather than to vineyards alone. A brief review of the actual condition of sweet-wine making on the Pacific Coast would show that it would be absurd to suppose the Congress of the United States intended by this law to discriminate between the wineries where pure, sweet wines are made upon vineyards only, and wineries where similar pure wines are made, though situated for convenient reasons along the lines of railway, where the grapes of vine growers are purchased. It is a fact that two thirds of all the sweet wines of California are made at wineries from grapes grown in vineyards not controlled by such wineries; to pre-

vent such wineries from benefiting by this Act, would be, in effect, to give a monopoly to those other wine makers who do not make, and have not the facilities to make, more than one third the market supply. It would be also absurd to suppose that the many thousands of vine growers in California would have petitioned and consented to the enactment of a law diminishing the number of those to whom they could sell grapes. The strict construction of this sentence would in many districts prevent all competition until new wineries are created, and would destroy the value of many valuable plants now created. It is neither in the interest of the Government nor in the interest of the grape grower that this word *vineyard* should be construed strictly; only those interested in creating a monopoly could possibly gain any advantage from such construction.

This statement is made forcibly in order that the department may thoroughly understand the grievance that may be caused by a necessarily strict construction, and not for the purpose of giving offense to those who do not fully appreciate this point. There is at this juncture a chance for a divergence of opinion. It is undoubtedly intended by this Act that its measures of relief should be only to actual producers. The provisions of the law plainly indicate that it was intended to exclude those who were only or mainly dealers, and not producers. It is easy enough, therefore, to devise a method of construing this word *vineyard* in harmony with the whole Act; in fact, to define it as though it was written *winery* and not *vineyard*. The law, however, must be taken as it reads, and inasmuch as the word *vineyard* has been substituted for *winery*, query: Are not those wineries which have been located for convenience along the lines of railway, but within vineyard districts, and also immediately connected with the management and control of vineyards in their vicinity—are not such wineries parts of the vineyard intended by the terms of this Act? I have presumed, in behalf of the committee which I represent, that the winery situated in another county, or in some large city or town, considerably remote from any direct connection with any vineyard, shall not be benefited by this Act. We have, however, in every vineyard district in this State, a great number of wineries located along the lines of railroad and in towns where labor is available, which are immediately connected in interest with vineyards in their vicinity, whether it be a question of one, two, or more miles distant; in the case of such vineyards or wineries, the department should construe the law as it was intended, for the benefit of "any producers of sweet wine."

It would be, of course, absurd to argue that a winery situated in San Francisco, connected with the vineyards in Santa Clara County, should be considered integral parts of a vineyard within the meaning of this Act; it is therefore only necessary, in order to harmonize these provisions, that the department shall declare under what circumstances a winery not surrounded by a practical vineyard shall be declared to be an integral part of a vineyard in that vicinity, so as to permit the proprietors to enjoy the benefits of this Act. If the department should be induced to take a more strict view of this situation, it would be necessary to conclude that Congress intended by this important word *vineyard* to destroy the practical value of a large number of legitimate wineries and to create necessarily an uncalled for monopoly. I can cite a most notable case in point, viz.: that of the Gallegos Winery, at Irvington, in Alameda

County, California. Here is an instance of a large estate, having many hundred acres of vines and much unoccupied land; the winery for this estate is located at the railroad station for convenience of annual crops and transportation; the immediate adjoining lands have been segregated and sold for community purposes, so that the winery, as I understand it, has become detached from the main vineyard. Now, this particular winery is not only one of the great prides of California, but would be admired anywhere in the world. It has cost a great sum of money, and it would practically ruin the company to reduce its usefulness. If it should be decided that because this winery is not immediately surrounded by the vines which supply it with means for activity, a vast injustice would be done. The Government would suffer as well as the industry, and no one would be benefited. Similar cases exist all over the State. Wine makers who have established themselves at available points for the purchase of grapes, who have not contemplated this contingency, can easily connect themselves with the actual vineyards which supply their grapes, by legitimate contracts or leases, or purchases of lands, and the substantial intent of the law will be provided for. It will not be necessary, in making this liberal construction of the word *vineyard* so as to conform with the plain intent of other sections of this Act, to open loop-holes for the diversion of its benefits by construing the winery located in one county, in the midst of a large city, to be connected as a part of a vineyard in another county. It will be easy enough to define, within practical limits, the connection between winery and vineyard, so as to make this law practical and just.

* * * Such use to be under the immediate supervision of an officer of Internal Revenue, who shall make returns describing the kinds and qualities of wines so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. * * *

Within the intent and meaning of this law, the provision now quoted should be transposed so as to follow the connection of the succeeding and terminal part of this section, relating to the time within which wines fortified under this Act shall be held subject to inspection and for accounting with the Government. The supervision provided for, as well as also the stamps and seals, cannot properly be construed except after proper construction of the purposes of the succeeding lines relating to period for inspection and accounting. Therefore, I pass on to these lines and will discuss both together.

* * * And the Commissioner of Internal Revenue shall provide by regulations the time within which wines so fortified with the wine spirits so withdrawn may be subject to inspection, and for accounting for the use of such wine spirits, and for re-warehousing, or for payment of the tax on any portion of such wine spirits which remain not used in fortifying pure sweet wines.

The most important feature in this bill is contained in these lines, and it is because this has been overlooked or misunderstood that most of the confusion under the operation of the law up to the present time has been occasioned. The clause under consideration now, provides in fact for a bonding period variable in length, according to circumstances, during which period the goods affected are under the surveillance of the Government. In every case of application for the privilege provided for in this law, there should be determined a period during which the inspection shall be exercised, and all questions of accounting shall be adjusted.

Having properly construed this clause, it becomes plain what is intended by the use of stamps and seals provided for in the preceding lines. In some cases there will be demand only for one single act of fortification, which can be concluded in a single day, after which the Government has no further interest in the matter, except to hold the goods under inspection until the final accounting for the use of free spirits has been accomplished. In such cases the minimum time of inspection only will be required, and to this the producer will be entitled. The maximum period for the time of supervision and accounting should be granted to those whose work, in preparing for market use their sweet wines, necessarily extend over various repeated operations for a considerable length of time. Now, having determined the time within which the supervisory control of the Government shall last, it is easy to understand what kind of supervision is intended by the preceding lines, and why stamps and seals are provided for, as well as also the time during which the use of such stamps shall be enforced by the Government.

It is not to be presumed that the Government has intended by this law to interfere, in any way, with any legitimately secret or practical methods of conducting private business, so long as the Government is satisfied that nothing but pure sweet wines, as defined by the Act, are subject to the privileges of this law. No officer of the law should, in any wise, be permitted to exercise any further inquisitorial powers. Producers who have succeeded in pleasing the public by reason of superior skill, either by selection of varieties of grapes, choice of location from which they are procured, etc., should not be subject to restriction, hinderance, or inquisition on the part of a subordinate revenue officer, who may be neither qualified to advise nor honest enough to respect the legitimate secrets of private business.

What, then, does the Government need? Certainly it is not intended by this supervision to pry into the private business of producers under any pretended plea that the Government rights are in danger. The Government fears, what? That the producer will put in more spirits in his sweet wine than the law provides? It is possible that some contingency might arise when such an act might be profitable, but it is scarcely conceivable under present conditions of sweet-wine making and the market prices of spirits and wines.

It takes an average of four and a half gallons of wine to make a gallon of brandy. In making sweet wine it is not to be presumed that the producer will, in his own interest, seek to condense any larger portion of his wine into the form of spirits than necessity compels him to do. There are very few cases where any producer could use more brandy than the law provides for in fortifying sweet wine with profit. A good way, therefore, for the Government to pursue in making regulations to prevent fraud would be to first investigate what kinds of frauds are likely to exist and be profitable, for I have never heard of any one in practical business pursuing fraudulent measures for any other business than to reap profit. The pure cussedness of human nature, which is a characteristic more of children, low politicians, and cranks, cuts very little figure in economic public questions; therefore, the Government need not be alarmed for fear that more than the quantity of spirits allowed by the law in making pure sweet wines will be used in those districts where grapes are plentiful and where sweet-wine production is normal.

Regulation under this law should be made to have local significance. It would be unfair to the normal sweet-wine production of California to apply the same cautious restrictions and supervisions that might be necessary in Ohio, Missouri, or in New York, where there is no such thing as normal sweet-wine making; therefore, we have the right to ask the Government to recognize, by regulations, the characteristic distinction between different large districts of our country, and to relieve us in California from certain inquisitorial regulations, which might be suitable for other communities. Further discussion on this point is out of place in this analysis of the law and its purposes.

The supervision required under this Act is not intended to be paternal to the production of wines, but simply watchful on the part of the Government. The local officer immediately in contact with the vine grower is not supposed to be capable of deciding disputes and controlling the final accounting provided for in the succeeding lines. Such a conclusion as would otherwise be drawn would produce boundless confusion. The supervisory officer provided for herein is witness to acts done by the wine maker and the agent of the Government to prevent tampering with the evidence. It is the wine maker who will make the wine under this Act, and not the agent of the Government; it is the Government's witness who will testify as to the facts in case of disputes; and it is a superior officer to whom final accounting is made, and before whom disputes are argued when necessity requires it; and it is because such disputes are possible that in this law provision is made:

First—For stamps and seals to identify packages during the period of possible controversy, and for the time within which such possible disputes shall be decided. No stamps or seals should be used in any manner so as to interfere with the practical work of the wine maker. It is a duty of the Government to find its own means of self-protection without in any way injuring the producer.

Second—For reports based upon the supervision required under the law as to the acts of the wine maker, supported by the evidence secured by the stamps and seals. If there is to be a possible delinquency, there must be detained by the Government the goods delinquent; therefore, the necessity for identification of packages by stamps and seals; but this identification should not be obtained at the cost of the producer, but at the cost of the Government.

Third—The decision of the District Internal Revenue Collector on final accounting between the producer and the Government. It is presumed that the local officer has fixed the time for inspection sufficiently long to enable the Government to decide any disputes that may arise. Having decided these possible disputes, and having given official receipts on final accounting, the producer becomes once more a free American citizen. His goods are free from stamps and seals and supervisions.

Now, having reviewed the three practical acts of the Government done in its own interest and in the interest of the producer, viz.: (1) fixing the period for inspection, which might be termed bonding; (2) seals and stamps to identify goods under inspection; (3) official accounting with the local District Collector; it is claimed, however, that some complication may arise whereby a modification of the period for inspection and accounting must be contemplated. Suppose, for instance, a grower, having done what he thinks he is entitled to do under the law, without intending to defraud, has been carried before the Dis-

trict Collector by the supervisory officer, and the decision being unfavorable to the producer, the grower appeals to the department in Washington. In such a case, the producer demanding further time should grant the Government further time in holding his goods, and for the purpose of appeal, he should be allowed to ask for an extension of the time of inspection and accounting, and consequently an extension of time for the surveillance by the Government. The time for settlement should be subject to amendment or extension of time, in case a producer demands it, in order to protect himself against adverse rulings. Assume, however, that after final accounting and the release of the goods which have been held under supervision, the Government discovers some evidence to indicate that it has been defrauded. In such a case the Government should proceed against the bondsmen and not against the goods; ~~in other words, the Government should not become the cause of disorder in trade through its own negligence and incompetency; further than this the Government should limit the time during which the bonds shall be subject to enforcement, and this limitation should be as short as possible. No private citizen should be required to guarantee the Government against incompetency of public officers for any longer time than is absolutely required for practical purposes.~~

The other provisions relating to sweet wines and fortifications, contained in Sections 46, 47, 48, and 49, are not necessarily included within the purposes of this analysis. To discuss them now would be confusing to the main issue.

CHARLES A. WETMORE,
Chief Executive Officer.

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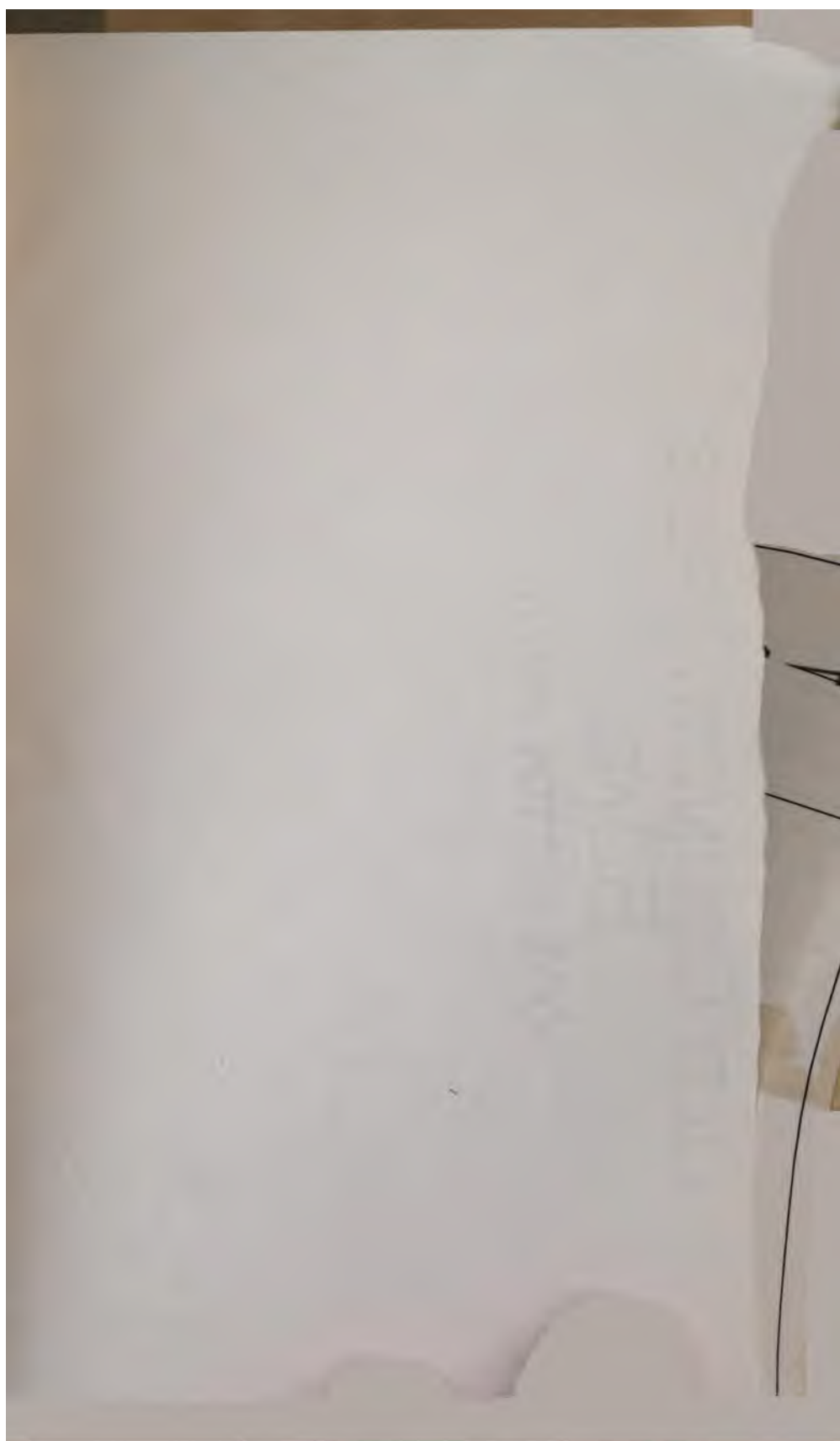
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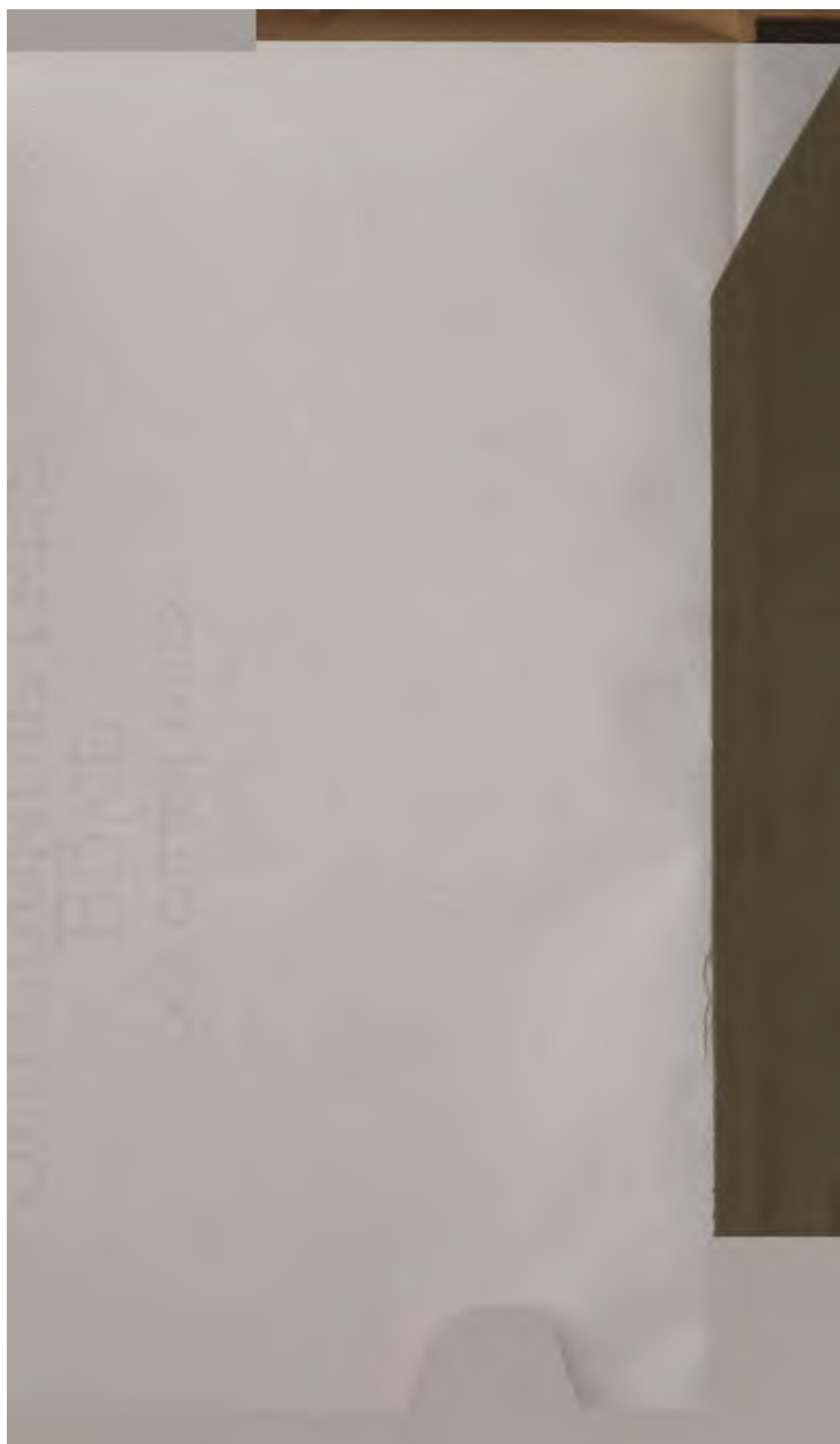
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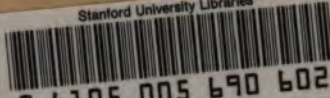
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